

REFERENCE TITLE: real estate sales; water disclosure

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2431

Introduced by

Representatives Mason, Burns J, Burton Cahill, Chase, Downing,
Kirkpatrick, Meza, O'Halleran, Pearce, Quelland, Rios P, Sinema, Senator
Miranda: Representatives Allen J, Biggs, Boone, Jones, Knaperek,
Konopnicki, Lujan, McClure, McComish, Nelson, Yarbrough, Senators Flake,
Hale, Soltero

AN ACT

AMENDING SECTION 33-422, ARIZONA REVISED STATUTES; RELATING TO DEEDS AND
CONVEYANCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 33-422, Arizona Revised Statutes, is amended to
3 read:

4 33-422. Land divisions; recording; disclosure affidavit

5 A. A seller of five or fewer parcels of land, other than subdivided
6 land, in an unincorporated area of a county and any subsequent seller of such
7 a parcel shall furnish a written affidavit of disclosure to the buyer, at
8 least seven days before the transfer of the property, and the buyer shall
9 acknowledge receipt of the affidavit.

10 B. The affidavit must be written in twelve point type.

11 C. No release or waiver of a seller's liability arising out of any
12 omission or misrepresentation contained in an affidavit of disclosure is
13 valid or binding on the buyer.

14 D. The buyer has the right to rescind the sales transaction for a
15 period of five days after the affidavit of disclosure is furnished to the
16 buyer.

17 E. The seller shall record the executed affidavit of disclosure at the
18 same time that the deed is recorded. The county recorder is not required to
19 verify the accuracy of any statement in the affidavit of disclosure. A
20 subsequently recorded affidavit supersedes any previous affidavit.

21 F. The affidavit of disclosure shall meet the requirements of section
22 11-480 and follow substantially the following form:

23 When recorded mail to:

24 _____
25 _____
26 _____
27 _____

28 Affidavit of Disclosure
29 Pursuant to A.R.S. §33-422

30 I, _____ (seller(s))
31 being duly sworn, hereby make this affidavit of disclosure
32 relating to the real property situated in the unincorporated
33 area of:

34 _____, County, State of Arizona, located at:
35 _____

36 and legally described as:

37 (Legal description attached hereto as exhibit "A")
38 (property).

39 1. There is is not....legal access to the property, as
40 defined in A.R.S. § 11-809.... unknown

41 Explain: _____
42 _____
43 _____

- 1 2. There is is not....physical access to the property.
 2 unknown
 3 Explain: _____
 4 _____
 5 _____
- 6 3. There is is not....a statement from a licensed surveyor or
 7 engineer available stating whether the property has physical
 8 access that is traversable by a two-wheel drive passenger motor
 9 vehicle.
- 10 4. The legal and physical access to the property is is
 11 not....the same.... unknown not applicable.
 12 Explain: _____
 13 _____
 14 _____
- 15 *If access to the parcel is not traversable by emergency*
 16 *vehicles, the county and emergency service providers may not be*
 17 *held liable for any damages resulting from the inability to*
 18 *traverse the access to provide needed services.*
- 19 5. The road(s) is/are publicly maintained privately
 20 maintained not maintained not applicable. If applicable,
 21 there is is not....a recorded road maintenance agreement.
 22 *If the roads are not publicly maintained, it is the*
 23 *responsibility of the property owner(s) to maintain the roads*
 24 *and roads that are not improved to county standards and accepted*
 25 *for maintenance are not the county's responsibility.*
- 26 6. A portion or all of the property is is not....located in a
 27 FEMA designated regulatory floodplain. If the property is in a
 28 floodplain, it may be subject to floodplain regulation.
- 29 7. The following services are currently provided to the property:
 30 water sewer electric natural gas single
 31 party telephone cable television services.
- 32 8. The property is served by a private well a shared well
 33 no well. If served by a shared well, the shared well is
 34 is not....a public water system, as defined by the safe
 35 drinking water act (42 United States Code § 300f).
- 36 9. THE PROPERTY IS IS NOT ... SERVED BY A WATER SUPPLY THAT
 37 HAS BEEN DETERMINED TO BE INADEQUATE.
- 38 ~~9.~~ 10. The property does have does not have an
 39 on-site wastewater treatment facility (i.e., standard septic or
 40 alternative system to treat and dispose of wastewater).
 41 unknown. If applicable: a) The property will will not
 42 require installation of an on-site wastewater treatment
 43 facility; b) The on-site wastewater treatment facility has
 44 has not been inspected.

1 ~~10.~~ 11. The property has been has not been subject to a
2 percolation test. unknown.

3 ~~11.~~ 12. The property does does not....meet the minimum
4 applicable county zoning requirements of the applicable zoning
5 designation.

6 ~~12.~~ 13. The sale of the property does does not...meet the
7 requirements of A.R.S. § 11-809 regarding land divisions. If those
8 requirements are not met, the property owner may not be able to
9 obtain a building permit. The seller or property owner shall
10 disclose each of the deficiencies to the buyer.

11 Explain: _____
12 _____
13 _____

14 ~~13.~~ 14. The property is is not located in the clear zone of a
15 military airport or ancillary military facility, as defined in
16 A.R.S. § 28-8461. (Maps are available at the state real estate
17 department's web site.)

18 ~~14.~~ 15. The property is is not located in the high noise or
19 accident potential zone of a military airport or ancillary military
20 facility, as defined in A.R.S. § 28-8461. (Maps are available at
21 the state real estate department's web site.)

22 ~~15.~~ 16. Notice: If the property is located within the territory in
23 the vicinity of a military airport or ancillary military facility,
24 the property is required to comply with sound attenuation standards
25 as prescribed by A.R.S. § ~~28-2482~~ 28-8482. (Maps are available at
26 the state real estate department's web site.)

27 ~~16.~~ 17. The property is is not located under military
28 restricted airspace. unknown. (Maps are available at the state
29 real estate department's web site.)

30 This affidavit of disclosure supersedes any previously recorded
31 affidavit of disclosure.

32 I certify under penalty of perjury that the information
33 contained in this affidavit is true, complete and correct
34 according to my best belief and knowledge.

35 Dated this ____ (date) ____ day of ____ (year) ____ by:

36 Seller's name (print): _____ Signature: _____

37 Seller's name (print): _____ Signature: _____

38 State of Arizona)

39) ss.

40 County of _____)

41 Subscribed and sworn before me this ____ (date) ____ day of
42 ____ (year) ____, by _____.

43 _____
44 Notary public

